

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
LightSquared Subsidiary LLC)	SAT-MOD-20101118-00239
)	
Request for Modification of Its Authority for an)	
Ancillary Terrestrial Component)	

REPLY COMMENTS OF NEW DBSD SATELLITE SERVICES G.P.

New DBSD Satellite Services G.P., Debtor-in-Possession ("DBSD"), submits these reply comments in support of the application of LightSquared Subsidiary LLC ("LightSquared") for modification of its Ancillary Terrestrial Component ("ATC") authority.¹ DBSD, like LightSquared, has invested extraordinary amounts of time, money, and effort to design, build and launch a sophisticated Mobile Satellite Service network with an Ancillary Terrestrial Component ("MSS/ATC"). MSS/ATC will fulfill key public interest objectives of the Federal Communications Commission ("Commission") as well as the National Broadband Plan ("Broadband Plan") to ensure the development of robust Mobile Satellite Service ("MSS") capabilities and increased

¹ See Policy Branch Information, Applications Accepted for Filing, *Public Notice*, Report No. SAT-00738 (rel. Nov. 19, 2010); LightSquared Subsidiary LLC Application for Modification of ATC Authority, SAT-MOD-20101118-00239 (filed Nov. 18, 2010) (the "Application"). On November 26, 2010, the Commission extended the deadline for filing reply comments from December 6, 2010 to December 9, 2010. See *LightSquared Subsidiary LLC; Request for Modification of Its Authority for an Ancillary Terrestrial Component*, Order, SAT-MOD-20101118-00239 (rel. Nov. 26, 2010). These reply comments of DBSD submitted to the FCC on December 9, 2010 are therefore timely filed.

spectrum availability for mobile broadband networks by attracting additional capital investment for the deployment of wireless broadband networks, reducing network deployment costs and consumer prices, enhancing competition, stimulating innovation and job creation across the wireless broadband ecosystem, providing new capabilities to public safety agencies and ensuring deployment of essential primary communications and broadband services to all areas, including rural and unserved areas.

ATC gating criteria must not be strictly applied by the Commission as a regulatory barrier to broadband deployment and capital investment. LightSquared's proposal seeks to meet the integrated service requirement in a manner that will potentially lead to greater broadband deployment and capital investment in the MSS/ATC industry. While some comments support expeditious and favorable action on the LightSquared application,² other comments attempt to raise both procedural and substantive obstacles to such action.³ Among other things, these objecting parties argue that the Commission must not act upon the LightSquared application now because it raises issues of wide applicability to the MSS/ATC industry and, therefore, must be considered in connection with the Commission's pending Notice of Proposed Rulemaking

² See, e.g., Comments of Open Range Communications Inc., SAT-MOD-20101118-00239 (filed Dec. 2, 2010); Comments of TerreStar Networks Inc., SAT-MOD-20101118-00239 (filed Dec. 2, 2010).

³ See, e.g., Comments of Verizon Wireless, SAT-MOD-20101118-00239 (filed Dec. 2, 2010); Comments of AT&T Inc., SAT-MOD-20101118-00239 (filed Dec. 2, 2010); Comments of CTIA – The Wireless Association®, SAT-MOD-20101118-00239 (filed Dec. 2, 2010).

and Notice of Inquiry on MSS/ATC.⁴ These comments do not acknowledge that the LightSquared application is expressly called for by the Commission's rules and, accordingly, grant of the relief requested by these objecting comments will nullify the very MSS/ATC rule that LightSquared is seeking to satisfy in its application.

When the Commission adopted its MSS/ATC rules in 2003, it considered very carefully the ways in which an MSS/ATC applicant or licensee could satisfy the "integrated service" gating criteria.⁵ The FCC concluded in the *ATC Report and Order* that an applicant could meet the "integrated service" requirement either by using a "dual-mode handset that can communicate with both the MSS network and the MSS ATC component" or by providing "[o]ther evidence establishing that the MSS ATC operator will provide an integrated service"⁶ In doing so, the Commission created a "safe harbor" for meeting the integration criterion while recognizing that applicants may "choose not to rely on this safe harbor" and instead "submit for Commission review evidence demonstrating that the service they propose to offer will be integrated."⁷ The

⁴ See *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, ET Docket No. 10-142, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 10-126, 25 FCC Rcd 9481 (2010) (the "*MSS/ATC NPRM & NOI*").

⁵ See *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, IB Docket Nos. 01-185 and 02-364, Report and Order and Notice of Proposed Rulemaking, FCC 03-15, 18 FCC Rcd 1962 (2003) (the "*ATC Report & Order*"); 47 C.F.R. § 25.149(b)(4) (2009).

⁶ 47 C.F.R. § 25.149(b)(4).

⁷ *ATC Report & Order* at ¶ 88.

Commission further acknowledged this evidence could be "technical, economic, or any other substantive showing . . . includ[ing], for example, information on the pricing structure of an integrated service offering."⁸ These principles were codified in Commission Rule 25.149(b)(4). The LightSquared application has made its showing under Rule 25.149(b)(4) using the very same information called for when the Commission adopted the MSS/ATC rules back in 2003.⁹ The Commission therefore may properly examine and process the LightSquared application in light of Rule 25.149(b)(4) and Commission precedent.

DBSD fully supports the Commission's expeditious consideration and grant of the LightSquared application, as well as the Commission's speedy action on the *MSS/ATC NPRM & NOI* and its initiation of a rulemaking to relax the ATC gating criteria. Indeed, these goals are not mutually exclusive, and both will serve important public interest objectives and ensure sufficient spectrum for broadband services in the near future. Prompt Commission action on the *MSS/ATC NPRM & NOI* will give clarity to the investment community regarding ways in which MSS/ATC providers may structure commercial arrangements, including spectrum leasing. Likewise, prompt Commission action on the LightSquared application is needed so that LightSquared can move forward

⁸ *Id.*

⁹ LightSquared's new business plan consists of a satellite network that is technically integrated with a terrestrial network, integrated pricing, and a substantial investment to ensure that dual-mode devices are available to users of its network. *See Application, Letter Narrative* at 4-7.

with its business plans. Thus, DBSD supports prompt action on both the LightSquared application as well as on the *MSS/ATC NPRM & NOI*.

While DBSD supports prompt and favorable action for LightSquared, the Commission should clarify in its decision on the LightSquared application that the case-by-case disposition of "integrated service" showings should not pre-judge particular business models. To preserve the integrity of Rule 25.149(b)(4), the Commission should remain committed to considering each "integrated service" showing *de novo*.

Respectfully submitted,

/s/ Peter A. Corea

Peter A. Corea
Vice President, Regulatory Affairs

NEW DBSD SATELLITE SERVICES G.P.,
DEBTOR-IN-POSSESSION
11700 Plaza American Drive, Suite 1010
Reston, VA 20190
(703) 964-1400

December 9, 2010

CERTIFICATE OF SERVICE

I, Daniel P. Brooks, hereby certify that on this 9th day of December, 2010, I caused to be served a true copy of the foregoing "Comments of New DBSD Satellite Services G.P." by first class mail, postage pre-paid, upon the following:

Jeffrey J. Carlisle
Executive Vice President,
Regulatory Affairs
LightSquared Subsidiary LLC
10802 Parkridge Boulevard
Reston, VA 20191

/s/ Daniel P. Brooks_____